

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND)
COMPOUNDING PHARMACY, INC.)
PRODUCTS LIABILITY LITIGATION)
) MDL No. 1:13-md-2419
This Document Relates to:)
) Judge Rya Zobel
All Actions Involving the Saint Thomas)
Clinic Defendants)

**PLAINTIFFS' STEERING COMMITTEE'S MOTION TO STRIKE SUPPLEMENTAL
MIXON REPORT**

For the reasons set forth in the accompanying Memorandum, the Plaintiffs' Steering Committee hereby moves the Court under Rule 37(c) to strike the supplemental report of William Mixon, which was untimely served on April 4, 2016. As explained the accompanying Memorandum, the defendants improperly seek to disclose a common issue opinion from Mr. Mixon three months after the Court-ordered deadline for doing so and weeks after the close of the common issue deposition deadline. The defendants' untimely disclosure violates the Court's Rule 26 expert disclosure schedule, it is not substantially justified, and it is not harmless. Therefore, under Rule 37, the Court must strike the untimely report and preclude the defendants from relying upon the new opinion expressed by Mr. Mixon within it.

Date: April 26, 2016

Respectfully submitted:

/s/ Benjamin A. Gastel

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CERTIFICATE OF SERVICE

I, Benjamin A. Gastel, hereby certify that I caused a copy of the foregoing document to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Date: April 25, 2016

/s/ Benjamin A. Gastel
Benjamin A. Gastel

